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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/872,457	06/01/2001	David R. Miller	041581-2002	3014
36412	7590	06/03/2005	EXAMINER	
DUCKOR SPRADLING METZGER 401 WEST A STREET, SUITE 2400 SAN DIEGO, CA 92101-7915			CORRIELUS, JEAN M	
			ART UNIT	PAPER NUMBER
			2162	

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/872,457

Applicant(s)

MILLER ET AL.

Examiner

Jean M Corrielus

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

1. This office action is in response to the application filed on June 01, 2001, in which claims 1-13 are presented for examination.

Information Disclosure Statement

2. The information disclosure statement (IDS) filed on November 04, 2004, January 3, 2005 and January 28, 2005 complies with the provisions of M.P.E.P 609. It has been placed in the application file. The information referred to therein has been considered as to the merits.

Drawings

3. Applicants are required to furnish the formal drawings in response to this office action if the formal drawings have not been submitted. No new matter may be introduced in the required drawings. Failure to timely submit a drawing will result in ABANDONMENT of the application.
4. Figures 1 and 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. The disclosure is objected to because of the following informalities: the summary of the invention is not provided. Appropriate correction is required.

6. *The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.*

Arrangement of the Specification

7. As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

(a) TITLE OF THE INVENTION.

(b) CROSS-REFERENCE TO RELATED APPLICATIONS.

(c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR
DEVELOPMENT.

(d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT

(e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A

COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or

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REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a).

"Microfiche Appendices" were accepted by the Office until March 1, 2001.)

(f) BACKGROUND OF THE INVENTION.

(1) Field of the Invention.

(2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.

(g) BRIEF SUMMARY OF THE INVENTION.

(h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).

(i) DETAILED DESCRIPTION OF THE INVENTION.

(j) CLAIM OR CLAIMS (commencing on a separate sheet).

(k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

(l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Claim Objections

8. Claims 2 and 5 are objected to because of the following informalities: claims 2 and 5 respectively recite "wherein said generating comprises using Zhang's methodology" and wherein said means generating employs using Zhang's methodology". One having ordinary skill in the art would generate a plurality of classification trees Zhang's methodology. Applicant is advised to amend the claims to read as "wherein said classification trees using Zhang's methodology".

Claim Rejections - 35 USC § 112

9. Claims 3 and 6 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 3 and 6, respectively recite, “wherein said searching comprises using Zhang’s methodology” and “wherein said means for searching employs Zhang’s methodology”. It is unclear why one having ordinary skill in the art would use Zhang’s methodology to search the consumer cluster. Zhang’s methodology according to the invention is used to create the classification tree. If the Zhang’s methodology can also use to search the consumer cluster, it must be detail in the specification. The specification does not show in anywhere that the Zhang’s methodology can also use to search the consumer cluster. Applicant is advised to amend the specification or cancel the limitation from the claims. No new matter should be added.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lazarus et al., (hereinafter “Lazarus”) US Patent no. 6,430,539 and Zhang, article entitled “Classification trees”.

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As to claims 1 and 4, Lazarus discloses “behavioral data for a set of consumer, wherein consumer in each cluster of said plurality of cluster have substantially similar behavioral characteristics to each other and different behavioral characteristics from the consumers in all other clusters of said plurality of cluster” (see col.1, lines 35-47; col.3, lines 1-6 and lines 55-57; col.4, lines 12-42; col.5, lines 28-31; col.9, lines 55-67; col.10, lines 1-12), “demographic data for a set of consumer, wherein consumer in each cluster of said plurality of cluster have substantially similar demographic characteristics” (see col.1, lines 35-47; col.3, lines 1-6 and lines 55-57; col.4, lines 12-42; col.5, lines 28-31; col.9, lines 55-67; col.10, lines 1-12; col.12, lines 57-62). Lazarus provides a solution that defined cluster based jointly on behavior and demographics (col.39, lines 44-52; col.9, line 55-col.10, line 28; col.5, lines 26-65). Lazarus does not explicitly disclose the use of generating a plurality of classification tree base on demographics and behavior data. Zhang, on the other hand, discloses the use of creating a classification a plurality of classification tree base on demographics and behavior data (page 181, section 2.2; fig.3; fig.4; fig.5). It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teachings of the cited references. Such a combination would provide Applicant’s admitted prior art the enhanced capability of increasing the accuracy of prediction.

As to claims 2 and 5, Zhang discloses the claimed “wherein said classification trees using Zhang’s methodology” (page 181, section 2.2; fig.3; fig.4; fig.5).

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As to claim 3 and 6, Zhang discloses the claimed “wherein said searching using Zhang’s methodology” (page 181, section 2.2; fig.3; fig.4; fig.5).

12. As to claim 7, Lazarus discloses the claimed “a profile definitions module for supplying profile definitions to said partitioning module for use in creating classification trees” (see col.3, lines 1-6 and lines 55-57; col.4, lines 12-42; col.5, lines 28-31; col.9, lines 55-67; col.10, lines 1-12; col.12, lines 57-62; col.11, lines 48-66; col.15, line 64-col.16, lines 7); “a profile data module for supplying profile data to said partitioning module” (see col.1, lines 35-47; col.3, lines 1-6 and lines 55-57; col.4, lines 12-42; col.5, lines 28-31; col.9, lines 55-67; col.10, lines 1-12; col.12, lines 57-62; col.11, lines 48-66; col.15, line 64-col.16, lines 7); “a segment definitions module for supplying segment definitions data to said partitioning module” (see col.1, lines 35-47; col.3, lines 1-6 and lines 55-57; col.4, lines 12-42; col.5, lines 28-31; col.9, lines 55-67; col.10, lines 1-12, lines 24-28; col.12, lines 57-62); and “a cluster assignments module for storing consumer clusters generated by said partitioning module, wherein said partitioning module generates an optimal classification tree resulting in a plurality of consumer clusters with consumers in each cluster of said plurality of clusters having substantially similar behavioral and demographic characteristics to each other and different behavioral or demographic characteristics from consumers in all other clusters of said plurality of clusters” (col.39, lines 44-52; col.9, line 55-col.10, line 28; col.5, lines 26-65). However, Lazarus does not explicitly create classification trees to define consumer clusters. Zhang, on the other hand, discloses the use of creating a classification a plurality of classification tree base on demographics and behavior data (page 181, section 2.2; fig.3; fig.4; fig.5). It would have been obvious to one having ordinary skill in the art

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at the time the invention was made to combine the teachings of the cited references. Such a combination would provide Applicant's admitted prior art the enhanced capability of increasing the accuracy of prediction.

As to claim 8, Lazarus discloses the claimed "a summarization module adapted to generate summary data, said summary data being a summarization of data contained in said cluster assignments module" (see col.1, lines 35-47; col.3, lines 1-6 and lines 55-57; col.4, lines 12-42; col.5, lines 28-31; col.9, lines 55-67; col.10, lines 1-12, lines 24-28; col.12, lines 57-62); and a summary data module adapted to store said summary data" (see col.1, lines 35-47; col.3, lines 1-6 and lines 55-57; col.4, lines 12-42; col.5, lines 28-31; col.9, lines 55-67; col.10, lines 1-12, lines 24-28; col.12, lines 57-62).

As to claim 9, Lazarus discloses the claimed "wherein said profile definitions module comprises a database" (col.10, lines 24-27).

As to claim 10, Lazarus discloses the claimed "wherein said profile data module comprises an electronic file" (col.10, lines 22-24).

As to claim 11, Lazarus discloses the claimed "wherein said segment definitions module comprises a dbase file" (col.13, line 15-col.15, line 22).

As to claim 12, Lazarus discloses the claimed "wherein said cluster assignments module comprises a dbase table" (col.13, line 15-col.15, line 22).

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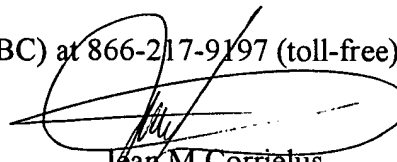
As to claim 13, Zhang discloses the claimed "wherein said partitioning module uses Zhang's methodology to create classification trees" (page 181, section 2.2; fig.3; fig.4; fig.5).

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean M Corrielus whose telephone number is (571) 272-4032. The examiner can normally be reached on 10 hours shift.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached on (571) 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jean M Corrielus
Primary Examiner
Art Unit 2162

May 23, 2005